



February 17, 2009

SENATE BILL No. 420

DIGEST OF SB 420 (Updated February 12, 2009 4:09 pm - DI yl)

Citations Affected: IC 8-1.

Synopsis: Renewable energy. Requires the utility regulatory commission (IURC) to consider in the rate base of a public utility that complies with certain renewable energy standards (RES) any capital expenditures made by the public utility to extend gas or electric service to a customer that produces biofuels. Requires the IURC to provide certain financial incentives for implementing electric line facilities projects to electricity suppliers that comply with a certain RES. Requires electricity suppliers to comply with an RES by specified dates. Provides that an electricity supplier that does not comply with a higher RES is not eligible for certain financial incentives related to renewable energy development. Provides that: (1) low carbon dioxide emitting or noncarbon dioxide emitting energy production or generating facilities; and (2) purchases of energy produced by such facilities; qualify for the financial incentives available for clean coal and energy projects. Provides that a combined heat and power facility qualifies as a renewable energy resource for purposes of the statute that provides financial incentives for clean coal and energy projects. Provides that an eligible business may recover qualified utility system expenses, which include specified preconstruction costs, associated with a: (1) new energy production or generating facility; or (2) low carbon dioxide emitting or noncarbon dioxide emitting energy production or generating facility. Makes technical changes.

Effective: Upon passage; July 1, 2009.

Hershman

January 12, 2009, read first time and referred to Committee on Rules and Legislative Procedure.
February 16, 2009, amended; reassigned to Committee on Utilities and Technology.

SB 420—LS 7409/DI 13+



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February 17, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE BILL No. 420

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-1-2-23.1 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2009]: **Sec. 23.1. (a) This section applies to a public utility that**
4 **complies with the schedule set forth in IC 8-1-37-5(b).**

5 **(b) For purposes of section 23 of this chapter, the construction,**
6 **addition, extension, or improvement of a public utility's plant or**
7 **equipment to provide electric or gas service to a customer that**
8 **produces biodiesel, ethanol, or any other biofuel is in fact used and**
9 **useful in the public service.**

10 **(c) This subsection applies to a public utility's general rate**
11 **proceeding that immediately follows the public utility's investment**
12 **in a construction, an addition, an extension, or an improvement**
13 **described in subsection (b). A public utility may accrue for**
14 **recovery in the rate proceeding a return not to exceed fifty million**
15 **dollars (\$50,000,000) on the public utility's investment at the rate**
16 **of return authorized by the commission in the public utility's**
17 **general rate proceeding immediately preceding the investment.**

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The accrual of a return by a public utility under this subsection:

(1) begins on the date the public utility initially records the investment in the public utility's books or records, as determined by the commission; and

(2) ends on the earlier of the following dates:

(A) The date on which the public utility accrues the full return determined under this subsection.

(B) December 31, 2016.

However, the rate of return authorized by the commission shall be calculated under a formula that extends beyond December 31, 2016.

(d) Notwithstanding subsection (c), the commission shall revoke a cost recovery approved under this chapter for an electricity supplier that the commission determines has:

(1) elected to; and

(2) failed to;

comply with the schedule set forth in IC 8-1-37-5(b).

(e) This section expires December 31, 2016.

SECTION 2. IC 8-1-8.4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 8.4. Electric Line Facilities Projects

Sec. 1. As used in this chapter, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

Sec. 2. As used in this chapter, "electric line facilities" means the following:

(1) Overhead or underground electric transmission lines.

(2) Overhead or underground electric distribution lines.

(3) Electric substations.

Sec. 3. As used in this chapter, "electric line facilities project" means an addition to or the construction, operation, maintenance, reconstruction, relocation, upgrading, or removal of electric line facilities.

Sec. 4. As used in this chapter, "electricity supplier" means a public utility that furnishes retail electric service to the public.

Sec. 5. As used in this chapter, "public utility" has the meaning set forth in IC 8-1-2-1.

Sec. 6. As used in this chapter, "regional transmission organization" refers to the regional transmission organization approved by the Federal Energy Regulatory Commission for the control area in which an electricity supplier operated electric line facilities.

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1 **Sec. 7.** As used in this chapter, "renewable energy resources"
2 has the meaning set forth in IC 8-1-37-4.

3 **Sec. 8.** This chapter applies to an electricity supplier that
4 complies with the schedule set forth in IC 8-1-37-5(b).

5 **Sec. 9. (a)** The commission shall encourage electric line facilities
6 projects by creating the following financial incentives for electric
7 line facilities that are reasonable and necessary:

8 (1) The timely recovery of costs incurred by an electricity
9 supplier in connection with an electric line facilities project
10 that transmits or distributes electricity generated from
11 renewable energy resources.

12 (2) The timely recovery of costs, by means of a periodic rate
13 adjustment mechanism, incurred by an electricity supplier
14 taking service under a tariff of, or being assessed costs by the:

15 (A) regional transmission organization; or

16 (B) Federal Energy Regulatory Commission.

17 **(b)** The commission shall determine a reasonable schedule
18 under which an electricity supplier may recover costs under this
19 section. In making a determination under this subsection, the
20 commission shall consider the impact of the cost recovery on
21 ratepayers of the electricity supplier. A schedule determined under
22 this subsection must extend beyond December 31, 2016.

23 **Sec. 10. (a)** Subject to subsection (h), an electricity supplier must
24 submit an application to the commission for approval of an electric
25 line facilities project for which the electricity supplier seeks to
26 receive a financial incentive created under section 9 of this chapter.

27 **(b)** The commission shall prescribe the form for an application
28 submitted under this section.

29 **(c)** Upon receipt of an application under subsection (a), the
30 commission shall review the application for completeness. The
31 commission may request additional information from an applicant
32 as needed.

33 **(d)** The commission, after notice and hearing, shall issue a
34 determination of an electric line facilities project's eligibility for
35 the financial incentives described in section 8 of this chapter not
36 later than one hundred eighty (180) days after the date of the
37 application. A determination under this subsection must include a
38 finding that the applicant electricity supplier is in compliance with
39 the schedule set forth in IC 8-1-37-5(b).

40 **(e)** Subject to subsections (g) and (h), the commission shall
41 approve an application by an electricity supplier for an electric line
42 facilities project that is reasonable and necessary. An electric line

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facilities project is presumed to be reasonable and necessary if the electric line facilities project:

(1) is consistent with, or part of, a plan developed by the:

(A) regional transmission organization; or

(B) Federal Energy Regulatory Commission; or

(2) transmits or distributes electricity generated from renewable energy resources.

(f) This section does not relieve an electricity supplier of the duty to obtain any certificate required under IC 8-1-8.5 or IC 8-1-8.7.

(g) The commission shall not approve a financial incentive for that part of an electric line facilities project that exceeds the lesser of:

(1) seven percent (7%) of the electricity supplier's rate base approved by the commission in the electricity supplier's most recent general rate proceeding; or

(2) one hundred fifty million dollars (\$150,000,000).

(h) The commission may not approve a financial incentive under section 9 of this chapter for a particular electricity supplier if the commission has approved a financial incentive under section 9 of this chapter in the preceding twelve (12) months for that electricity supplier, unless the commission determines that approving a particular financial incentive for an electricity supplier on a more timely basis will benefit the electricity supplier's ratepayers.

Sec. 11. The commission shall revoke all financial incentives approved under this chapter for an electricity supplier that the commission determines has:

(1) elected to; and

(2) failed to;

comply with the schedule set forth in IC 8-1-37-5(b).

Sec. 12. This chapter expires December 31, 2016.

SECTION 3. IC 8-1-8.8-1, AS AMENDED BY P.L.175-2007, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) The general assembly makes the following findings:

(1) Growth of Indiana's population and economic base has created a need for new energy production or generating facilities in Indiana.

(2) The development of a robust and diverse portfolio of energy production or generating capacity, including coal gasification and the use of renewable energy resources, is needed if Indiana is to continue to be successful in attracting new businesses and jobs.

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(3) Indiana has considerable natural resources that are currently underutilized and could support development of new energy production or generating facilities, including coal gasification facilities, at an affordable price.

(4) Certain regions of the state, such as southern Indiana, could benefit greatly from new employment opportunities created by development of new energy production or generating facilities utilizing the plentiful supply of coal from the geological formation known as the Illinois basin.

(5) Technology can be deployed that allows high sulfur coal from the geological formation known as the Illinois Basin to be burned or gasified efficiently while meeting strict state and federal air quality limitations. Specifically, the state should encourage the use of advanced clean coal technology, such as coal gasification.

(6) It is in the public interest for the state to encourage the construction of new energy production or generating facilities that increase the in-state capacity to provide for current and anticipated energy demand at a competitive price.

(7) It is in the public interest for the state to encourage the study, analysis, and construction of low carbon dioxide emitting or noncarbon dioxide emitting energy production or generating facilities, as well as carbon dioxide capture, transportation, and storage facilities.

(b) The purpose of this chapter is to enhance Indiana's energy security and reliability by ensuring all of the following:

(1) Indiana's **and the region's** energy production or generating capacity continues to be adequate to provide for Indiana's current and future energy needs, including the support of the state's economic development efforts.

(2) The vast and underutilized coal resources of the Illinois Basin are used as a fuel source for new energy production or generating facilities.

(3) The electric transmission and gas transportation systems within Indiana are upgraded to distribute additional amounts of electricity and gas more efficiently.

(4) Jobs are created as new energy production or generating facilities are built in regions throughout Indiana.

(5) The study, analysis, and construction of low carbon dioxide emitting or noncarbon dioxide emitting energy production or generating facilities are encouraged at the same time as are new coal fired and other fossil fuel based energy production or generating facilities.

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SECTION 4. IC 8-1-8.8-2, AS AMENDED BY P.L.175-2007,
SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2009]: Sec. 2. As used in this chapter, "clean coal and energy
projects" means any of the following:

(1) Any of the following projects:

(A) Projects at new energy production or generating facilities
that employ the use of clean coal technology and that produce
energy, including substitute natural gas, primarily from coal,
or gases derived from coal, from the geological formation
known as the Illinois Basin.

(B) Projects to provide advanced technologies that reduce
regulated air emissions from existing energy production or
generating plants that are fueled primarily by coal or gases
from coal from the geological formation known as the Illinois
Basin, such as flue gas desulfurization and selective catalytic
reduction equipment.

(C) Projects to provide electric transmission facilities to serve
a new energy production or generating facility **or a low
carbon dioxide emitting or noncarbon dioxide emitting
energy production or generating facility.**

(D) Projects that produce substitute natural gas from Indiana
coal by construction and operation of a coal gasification
facility.

**(E) Projects or potential projects that employ the use of
low carbon dioxide emitting or noncarbon dioxide emitting
energy production or generating technologies to produce
electricity.**

(2) Projects to develop alternative energy sources, including
renewable energy projects ~~and~~ **or** coal gasification facilities.

(3) The purchase of fuels **or energy** produced by a coal
gasification facility **or by a low carbon dioxide emitting or
noncarbon dioxide emitting energy production or generating
facility.**

(4) Projects described in subdivisions (1) through ~~(3)~~ **(2)** that use
coal bed methane.

SECTION 5. IC 8-1-8.8-4, AS AMENDED BY P.L.175-2007,
SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2009]: Sec. 4. As used in this chapter, "coal gasification
facility" means a facility in Indiana that uses a manufacturing process
that converts coal into a clean gas that can be used:

(1) as a fuel to generate energy; or

(2) as substitute natural gas.

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SECTION 6. IC 8-1-8.8-6, AS AMENDED BY P.L.175-2007, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. As used in this chapter, "eligible business" means an energy utility (as defined in IC 8-1-2.5-2) or owner of a coal gasification facility that:

- (1) proposes to construct or repower a new energy production or generating facility;
- (2) proposes to construct or repower a project described in section 2(1) or 2(2) of this chapter;
- (3) undertakes a project to develop alternative energy sources, including renewable energy projects or **coal gasification facilities**;
- (4) purchases fuels **or energy** produced by a coal gasification facility **or by a low carbon dioxide emitting or noncarbon dioxide emitting energy production or generating facility**.

SECTION 7. IC 8-1-8.8-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7.5. (a) As used in this chapter, "**low carbon dioxide emitting or noncarbon dioxide emitting energy production or generating facility**" means an energy production or generation facility that is intended to produce:

- (1) **no carbon dioxide as a byproduct of the production or generation of energy; or**
- (2) **less carbon dioxide per megawatt hour of electricity generated than is produced per megawatt hour of electricity generated by a coal fired or other fossil fuel based energy production or generating facility.**

(b) **The term includes the transmission lines and other associated equipment employed specifically to serve a low carbon dioxide emitting or noncarbon dioxide emitting energy production or generating facility.**

SECTION 8. IC 8-1-8.8-8, AS AMENDED BY P.L.175-2007, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) As used in this chapter, "**new energy production or generating facility**" refers to a generation or coal gasification facility that satisfies all of the following:

- (1) The facility produces energy primarily from coal or gases from coal from the geological formation known as the Illinois Basin.
- (2) The facility is a:
 - (A) newly constructed or newly repowered energy ~~generation~~ plant; or
 - (B) newly constructed ~~generation~~ capacity expansion at an

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- 1 existing ~~facility~~; **plant**;
 2 dedicated primarily to serving Indiana retail customers.
 3 (3) The repowering, construction, or expansion of the facility was
 4 begun by an Indiana utility after July 1, 2002.
 5 (4) Except for a facility that is a clean coal and energy project
 6 under section 2(2) of this chapter, the facility has an aggregate
 7 rated electric generating capacity of at least one hundred (100)
 8 megawatts for all units at one (1) site or a generating capacity of
 9 at least four hundred thousand (400,000) pounds per hour of
 10 steam.
 11 (b) The term includes the transmission lines, gas transportation
 12 facilities, and associated equipment employed specifically to serve a
 13 new energy generating or coal gasification facility.
 14 SECTION 9. IC 8-1-8.8-8.5 IS ADDED TO THE INDIANA CODE
 15 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 16 1, 2009]: **Sec. 8.5. As used in this chapter, "qualified utility system
 17 expenses" mean any preconstruction costs associated with the
 18 study, analysis, or development of a:**
 19 **(1) new energy production or generating facility; or**
 20 **(2) new low carbon dioxide emitting or noncarbon dioxide**
 21 **emitting energy production or generating facility;**
 22 **including siting, design, licensing, and permitting costs, regardless**
 23 **of whether the facility for which such costs are incurred is**
 24 **ultimately constructed or placed in service.**
 25 SECTION 10. IC 8-1-8.8-9, AS AMENDED BY P.L.175-2007,
 26 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2009]: **Sec. 9. As used in this chapter, "qualified utility system**
 28 **property" means any:**
 29 **(1) new energy ~~production or~~ generating or ~~coal~~ gasification**
 30 **facility; or**
 31 **(2) new low carbon dioxide emitting or noncarbon dioxide**
 32 **emitting energy production or generating facility;**
 33 **used, or to be used, in whole or in part, by an energy utility to provide**
 34 **retail energy service (as defined in IC 8-1-2.5-3) regardless of whether**
 35 **that service is provided under IC 8-1-2.5 or another provision of this**
 36 **article.**
 37 SECTION 11. IC 8-1-8.8-10, AS AMENDED BY P.L.175-2007,
 38 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2009]: **Sec. 10. (a) As used in this chapter, "renewable energy**
 40 **resources" means alternative sources of renewable energy, including**
 41 **the following:**
 42 **(1) Energy from wind.**

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- (2) Solar energy.
 - (3) Photovoltaic cells and panels.
 - (4) Dedicated crops grown for energy production.
 - (5) Organic waste biomass, including any of the following organic matter that is available on a renewable basis:
 - (A) Agricultural crops.
 - (B) Agricultural wastes and residues.
 - (C) Wood and wood wastes, including the following:
 - (i) Wood residues.
 - (ii) Forest thinnings.
 - (iii) Mill residue wood.
 - (iv) Waste from clean construction and demolition.
 - (D) Animal wastes.
 - (E) Aquatic plants.
 - (6) Hydropower from existing dams.
 - (7) Fuel cells.
 - (8) Energy from waste to energy facilities producing steam not used for the production of electricity.
 - (9) Combined heat and power facilities.**
- (b) Except for energy described in subsection (a)(8), the term does not include energy from the incinerations, burning, or heating of any of the following:
- (1) Tires.
 - (2) General household, institutional, commercial, industrial lunchroom, office, or landscape waste.
- (c) The term excludes treated or painted lumber.
- SECTION 12. IC 8-1-8.8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) The commission shall encourage clean coal and energy projects by creating the following financial incentives for clean coal and energy projects, if the projects are found to be reasonable and necessary:
- (1) The timely recovery of costs incurred during construction and operation of projects described in section 2(1) or 2(2) of this chapter.
 - (2) The authorization of up to three (3) percentage points on the return on shareholder equity that would otherwise be allowed to be earned on projects described in subdivision (1).
 - (3) Financial incentives for the purchase of fuels **or energy** produced by a coal gasification facility **or by a low carbon dioxide emitting or noncarbon dioxide emitting energy production or generating facility**, including cost recovery and the incentive available under subdivision (2).

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(4) Financial incentives for projects to develop alternative energy sources, including renewable energy projects **or coal gasification facilities.**

(5) Other financial incentives the commission considers appropriate.

(b) An eligible business must file an application to the commission for approval of a clean coal and energy project under this section. This chapter does not relieve an eligible business of the duty to obtain any certificate required under IC 8-1-8.5 or IC 8-1-8.7. An eligible business seeking a certificate under IC 8-1-8.5 or IC 8-1-8.7 and this chapter for one (1) project may file a single application for all necessary certificates. If a single application is filed, the commission shall consider all necessary certificates at the same time.

(c) The commission shall promptly review an application filed under this section for completeness. The commission may request additional information the commission considers necessary to aid in its review.

(d) The commission shall, after notice and hearing, issue a determination of a project's eligibility for the financial incentives described in subsection (a) not later than one hundred twenty (120) days after the date of the application, unless the commission finds that the applicant has not cooperated fully in the proceeding.

SECTION 13. IC 8-1-8.8-12, AS AMENDED BY P.L.175-2007, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) The commission shall provide financial incentives to eligible businesses for:

(1) new energy ~~producing and~~ **production or** generating facilities; **and**

(2) **new low carbon dioxide emitting or noncarbon dioxide emitting energy production or generating facilities;**

in the form of timely recovery of the costs incurred in connection with the **study, analysis, development, siting, design, licensing, permitting,** construction, repowering, expansion, operation, or maintenance of the facilities.

(b) An eligible business seeking authority to timely recover the costs described in subsection (a) must apply to the commission for approval of a rate adjustment mechanism in the manner determined by the commission.

(c) An application must include the following:

(1) A schedule for the completion of construction, repowering, or expansion of the ~~new energy generating or coal gasification~~ facility for which rate relief is sought.

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(2) Copies of the most recent integrated resource plan filed with the commission, if applicable.

(3) The amount of capital investment by the eligible business in the ~~new energy generating or coal gasification~~ facility.

(4) Other information the commission considers necessary.

(d) The commission shall allow an eligible business to recover:

(1) the costs associated with qualified utility system property; **and**

(2) qualified utility system expenses;

if the eligible business provides substantial documentation that the expected costs ~~associated with qualified utility system property~~ **and expenses** and the schedule for incurring those costs ~~and expenses~~ are reasonable and necessary.

(e) The commission shall allow an eligible business to recover the costs associated with the purchase of fuels ~~or energy~~ produced by a coal gasification facility ~~or by a low carbon dioxide emitting or noncarbon dioxide emitting energy production or generating facility~~ if the eligible business provides substantial documentation that the costs associated with the purchase are reasonable and necessary.

(f) A retail rate adjustment mechanism proposed by an eligible business under this section may be based on actual or forecasted data. If forecast data is used, the retail rate adjustment mechanism must contain a reconciliation mechanism to correct for any variance between the forecasted costs and the actual costs.

SECTION 14. IC 8-1-8.8-13, AS AMENDED BY P.L.175-2007, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. An eligible business shall file a monthly report with the lieutenant governor stating the following information:

(1) The amount of Illinois Basin coal, if any, purchased during the previous month for use in a new energy **production or** generating ~~or coal gasification~~ facility.

(2) The amount of any fuel ~~or energy~~ produced by:

(A) a coal gasification facility; ~~and~~ **or**

(B) a low carbon dioxide emitting or noncarbon dioxide emitting energy production or generating facility;

that is purchased by the eligible business during the previous month.

(3) Any other information the lieutenant governor may reasonably require.

SECTION 15. IC 8-1-8.8-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. **(a)** The group shall conduct an annual study on the use, availability, and economics of using:

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- 1 (1) renewable energy resources; and
 2 (2) low carbon dioxide emitting or noncarbon dioxide emitting
 3 energy production or generating technologies to produce
 4 electricity;

5 in Indiana. Each year, the group shall submit a report on the study to
 6 the commission for inclusion in the commission's annual report to the
 7 regulatory flexibility committee described in IC 8-1-2.5-9 and
 8 IC 8-1-2.6-4.

9 (b) The report **required by this section** must include suggestions
 10 from the group to encourage the development and use of:

- 11 (1) renewable energy resources and technologies; and
 12 (2) low carbon dioxide emitting or noncarbon dioxide emitting
 13 energy production or generating technologies;

14 appropriate for use in Indiana.

15 SECTION 16. IC 8-1-37 IS ADDED TO THE INDIANA CODE AS
 16 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 17 1, 2009]:

18 **Chapter 37. Renewable Energy Development**

19 **Sec. 1. (a)** As used in this chapter, "electricity supplier" means
 20 a public utility (as defined in IC 8-1-2-1) that furnishes retail
 21 electric service to the public.

22 (b) The term does not include a utility that is a:

- 23 (1) municipally owned utility (as defined in IC 8-1-2-1(h));
 24 (2) corporation organized under IC 8-1-13; or
 25 (3) corporation organized under IC 23-17 that is an electric
 26 cooperative and that has at least one (1) member that is a
 27 corporation organized under IC 8-1-13.

28 **Sec. 2.** As used in this chapter, "regional transmission
 29 organization" refers to a regional transmission organization
 30 approved by the Federal Energy Regulatory Commission for the
 31 geographic area in which an electricity supplier's assigned service
 32 area (as defined in IC 8-1-2.3-2) is located.

33 **Sec. 3.** As used in this chapter, "renewable energy credit", or
 34 "REC", means one (1) megawatt hour of electricity that is:

- 35 (1) generated from a renewable energy resource described in
 36 section 4(a) of this chapter;
 37 (2) quantifiable; and
 38 (3) possessed by not more than one (1) entity at a time.

39 **Sec. 4. (a)** As used in this chapter, "renewable energy resources"
 40 includes the following sources and programs for the production or
 41 conservation of electricity:

- 42 (1) Methane systems that convert waste products, including

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1 animal, food, and plant waste, into electricity.

2 (2) Methane recovered from landfills.

3 (3) Wind.

4 (4) Solar photovoltaic cells and panels.

5 (5) Clean coal and energy projects (as defined in IC 8-1-8.8-2).

6 (6) Dedicated crops grown for energy production.

7 (7) Energy from waste to energy facilities producing steam
8 not used for the production of electricity.

9 (b) Except as provided in subsection (a)(7), the term does not
10 include energy from the incineration, burning, or heating of the
11 following:

12 (1) Garbage.

13 (2) General household, institutional, or commercial waste.

14 (3) Industrial lunchroom or office waste.

15 (4) Landscape waste.

16 (5) Construction or demolition debris.

17 (6) Feedstock that is municipal, food, plant, industrial, or
18 animal waste from outside Indiana.

19 **Sec. 5. (a) Each electricity supplier shall supply electricity under
20 a schedule set forth in either subsection (b) or (c).**

21 **(b) In order to qualify for a financial incentive under
22 IC 8-1-2-23.1, IC 8-1-8.4-9, or section 9 of this chapter, an
23 electricity supplier shall supply electricity that is generated from
24 renewable energy resources described in section 4(a) of this
25 chapter to Indiana customers as a percentage of the total electricity
26 supplied by the electricity supplier to Indiana customers during a
27 calendar year as follows:**

28 **(1) Not later than the calendar year ending December 31,
29 2010, at least three percent (3%).**

30 **(2) Not later than the calendar year ending December 31,
31 2015, at least six percent (6%).**

32 **(3) Not later than the calendar year ending December 31,
33 2020, at least ten percent (10%).**

34 **(4) Not later than the calendar year ending December 31,
35 2025, at least fifteen percent (15%).**

36 **For purposes of this subsection, electricity is measured in
37 megawatt hours.**

38 **(c) An electricity supplier that elects not to comply with
39 subsection (b) shall supply electricity that is generated from
40 renewable energy resources described in section 4(a) of this
41 chapter to Indiana customers as a percentage of the total electricity
42 supplied by the electricity supplier to Indiana customers during a**

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calendar year as follows:

(1) Not later than the calendar year ending December 31, 2010, at least one and five-tenths percent (1.5%).

(2) Not later than the calendar year ending December 31, 2015, at least four percent (4%).

(3) Not later than the calendar year ending December 31, 2020, at least seven percent (7%).

(4) Not later than the calendar year ending December 31, 2025, at least ten percent (10%).

For purposes of this subsection, electricity is measured in megawatt hours.

(d) An electricity supplier may own or purchase RECs to comply with subsection (b) or (c), as applicable.

(e) An electricity supplier may not use a renewable energy resource described in section 4(a)(5) of this chapter to generate more than twenty-five percent (25%) of the electricity that the electricity supplier is required to supply under subsection (b) or (c), as applicable.

(f) If an electricity supplier exceeds the applicable percentage under subsection (b) or (c) in a compliance year, the electricity supplier may carry forward the amount of electricity that:

(1) exceeds the applicable percentage under subsection (a); and

(2) is generated from renewable energy resources in an Indiana facility;

to comply with the requirement under subsection (b) or (c) for either or both of the two (2) immediately succeeding compliance years.

Sec. 6. (a) An electricity supplier that elects to, and fails to, comply with the schedule set forth in section 5(b) of this chapter is no longer eligible for financial incentives as provided in IC 8-1-2-23.1(d), IC 8-1-8.4-11, or section 9(c) of this chapter, as applicable.

(b) An electricity supplier described in subsection (a) shall comply with the schedule set forth in section 5(c) of this chapter beginning in the compliance year in which the electricity supplier fails to comply with the schedule set forth in section 5(b) of this chapter.

Sec. 7. (a) This section applies to an electricity supplier that is required to, and fails to, comply with the schedule set forth in section 5(c) of this chapter.

(b) Beginning January 1, 2011, and annually thereafter, the

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1 commission shall determine whether an electricity supplier is in
 2 compliance with the schedule set forth in section 5(c) of this
 3 chapter. The commission shall make a determination under this
 4 subsection not later than March 1 of each year.

5 (c) If the commission determines that an electricity supplier is
 6 not in compliance with the schedule, the commission shall impose
 7 a reasonable monetary penalty on the electricity supplier. In
 8 determining the amount of the monetary penalty, the commission
 9 shall consider the efforts made by the electricity supplier in
 10 attempting to comply with the schedule.

11 (d) If the commission determines not later than December 31 of
 12 a year that an electricity supplier against whom a monetary
 13 penalty was imposed under subsection (c) has achieved compliance
 14 with the schedule the commission may refund all or part of the
 15 monetary penalty imposed on the electricity supplier for that
 16 calendar year.

17 Sec. 8. (a) An electricity supplier is not required to timely
 18 comply with section 5(b) or 5(c) of this chapter, as applicable, if the
 19 commission determines that the electricity supplier has
 20 demonstrated that the cost of compliance with section 5(b) or 5(c)
 21 of this chapter, as applicable, using the renewable energy resources
 22 available to the electricity supplier would result in an unreasonable
 23 increase in the basic rates and charges for electricity supplied to
 24 customers of the electricity supplier. The commission shall conduct
 25 a public hearing to make a determination under this section.

26 (b) If the commission determines under a hearing conducted
 27 under subsection (a) that the cost of compliance with section 5(b)
 28 or 5(c) of this chapter, as applicable, would result in an
 29 unreasonable rate increase, the commission shall extend the
 30 applicable deadline imposed under section 5(b) or 5(c) of this
 31 chapter. If the commission extends a deadline under this
 32 subsection, the commission shall consider whether subsequent
 33 deadlines imposed under section 5(b) or 5(c) of this chapter, as
 34 applicable, also should be extended.

35 Sec. 9. (a) The commission shall allow an electricity supplier
 36 that complies with the schedule set forth in section 5(b) of this
 37 chapter to recover reasonable and necessary costs incurred in:

- 38 (1) constructing, operating, or maintaining facilities to comply
 39 with this chapter; or
- 40 (2) generating electricity from, or purchasing electricity
 41 generated from, a renewable energy resource;

42 by a periodic rate adjustment mechanism.

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(b) Except as provided in subsection (c), the recovery of costs by a periodic rate adjustment mechanism under subsection (a) expires on the earlier of the following dates:

(1) The date on which the electricity supplier recovers under the period rate adjustment mechanism all costs allowed under subsection (a).

(2) December 31, 2016.

(c) The commission shall revoke a periodic rate adjustment mechanism allowed under subsection (a) for an electricity supplier that the commission determines:

(1) is required to; and

(2) has failed to;

comply with section 5(b) of this chapter.

Sec. 10. (a) For purposes of calculating RECs to determine an electricity supplier's compliance with section 5(b) or 5(c) of this chapter, as applicable, the following apply:

(1) Except as provided in subdivision (2), one (1) megawatt hour of electricity generated from renewable energy resources in an Indiana facility equals one (1) REC.

(2) One (1) megawatt hour of electricity generated from a renewable energy resource described in section 4(a)(1) or 4(a)(2) of this chapter that originates in Indiana equals two (2) RECs.

(3) One (1) megawatt hour of electricity that is:

(A) generated from a renewable energy resource in the territory of a regional transmission organization; and

(B) imported into Indiana;

equals five-tenths (0.5) REC.

(b) Electricity generated by any source outside the territory of a regional transmission organization may not be considered for purposes of calculating an REC to determine an electricity supplier's compliance with section 5(b) or 5(c) of this chapter, as applicable.

(c) An electricity supplier may not apportion all or part of a single megawatt of electricity among more than one (1):

(1) renewable energy resource; or

(2) category set forth in subsection (a);

in order to comply with section 5(b) or 5(c) of this chapter, as applicable.

Sec. 11. The Indiana economic development corporation, in consultation with the commission, shall develop a strategy to attract renewable energy component manufacturing and assembly

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1 facilities to Indiana.

2 Sec. 12. Beginning in 2016, not later than March 1 of each year,
3 an electricity supplier shall file with the commission a report of the
4 electricity supplier's compliance with this chapter for the
5 preceding calendar year.

6 Sec. 13. The commission shall adopt rules under IC 4-22-2 to
7 implement this chapter. A rule adopted under this section may
8 establish a procedure by which an electricity supplier that initially
9 elects to comply with the schedule set forth in section 5(c) of this
10 chapter may later comply with the schedule set forth in section 5(b)
11 of this chapter.

12 SECTION 17. An emergency is declared for this act.

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COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 420, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Utilities and Technology.

(Reference is to SB 420 as introduced.)

LONG, Chairperson

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